IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WP(C).No. 32577 of 2007(C)

LAR.159/1994 of ADDL.SUB COURT,KOLLAM
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PETITIONER:

K.RAMAKRISHNA PILLAI,
RACHANA VEEDU, CHOORAKKOTTU MURI,
ENATHU VILLAGE, ADOOR TALUK.

BY ADV. SRI.N.VIMALAN

RESPONDENT:

STATE OF KERALA, REPRESENTED BY THE
DISTRICT COLLECTOR, KOLLAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.32577 of 2007

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Dated this the 2nd day of November, 2007.

JUDGMENT

This Writ Petition is filed with a prayer to set aside the award of the Land Acquisition Court in L.A.R. No.151 of 1994. Ext.P2 would reveal that as the claimant was absent, the court below confirmed the order of the Land Acquisition Officer. Thereafter, the claimant filed an application under Order 9 Rule 9 of C.P.C. for restoration of the case.

2. It is settled principal that the Land Acquisition Court has no power to dispose of a case for default and further a reading of the award also would show that it has not been dismissed for default. So the rejection of the case for restoration cannot be found fault with. Since the Land Acquisition Court has no power to dismiss it for default, the intention is manifestly clear that the court has to apply its mind and consider the materials available and pass a reasonable and appropriate award irrespective of the

fact that the claimant is present or not. I am afraid, it is not done in this case.

2. I heard learned Government Pleader also.

3. It is a fit case where inherent power under Article 227 of the Constitution of India has to be exercised and an opportunity should be given to the claimant to put forward his case. Therefore, the award passed by the Subordinate Judge is set aside and L.A.R.No.151 of 1994 is directed to be restored to file and be disposed of in accordance with law after hearing both sides. Both parties are at liberty to adduce evidence. It is also made clear that the question of awarding interest from the date of answering the reference in negative till today be considered in accordance with law. Parties are directed to appear before the court below on 4.12.2007.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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